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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/032,211      | 12/21/2001  | Lucas S. Gordon      | PHAR0014            | 3453             |

7590

07/26/2004

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EXAMINER

DEAK, LESLIE R

ART UNIT PAPER NUMBER

3762

DATE MAILED: 07/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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|                              |                                      |   |  |
|------------------------------|--------------------------------------|---|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/032,211 | <b>Applicant(s)</b><br>GORDON, LUCAS S. |  |
|                              | <b>Examiner</b><br>Leslie R. Deak    | <b>Art Unit</b><br>3762                 |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 April 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-73 is/are pending in the application.  
     4a) Of the above claim(s) 1-52 and 54-73 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/29/02</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of claim 35 in the reply filed on 19 April 2004 is acknowledged. The traversal is on the ground(s) that the invention claimed in Group III is disclosed as being usable with the methods of Group I. This is not found persuasive because the elected methods specifically claim the use of a magnetic apparatus to separate particles from one another, and the apparatus of Group III fails to include the magnetic separators required by the claimed procedure. Therefore, the inventions are patentably distinct, requiring separate search and consideration.

The requirement is still deemed proper and is therefore made FINAL.

2. Examiner found no species of Group I to be generic to the entire group.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 53 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,069,662 to Bodden in view of US 6,616,623 to Kutushov. Bodden discloses a method for administering a medical agent to a patient in a targeted location and then removing the medical agent from the patient's bloodstream via an extracorporeal filtration circuit. Bodden discloses that the medical agent may be removed by physical separation

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means, but does not specifically disclose a magnetic removal apparatus. However, Kutushov discloses a method for treating a patient involving using magnetic particles that absorb various toxins. The particles are mixed with patient blood, absorb the toxins, and passed through a magnetic separation means to retain the particles while returning detoxified blood to the patient. The magnetic system allows longer and more efficient separation times, since there is no filter to clog. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to employ the magnetic separation system disclosed by Kutushov in the targeted administration and removal procedure disclosed by Bodden in order to provide for more efficient blood purification, as taught by Kutushov.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- a. US 6,186,146 Glickman
  - i. Isolated administration and filtration of medical agent

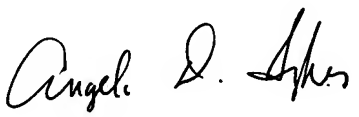
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leslie R. Deak whose telephone number is 703-305-0200. The examiner can normally be reached on M-F 7:30-5:00, every other Friday off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on 703-308-5181. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lrd  
21 July 2004

  
ANGELA D. SYKES  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700